IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.37457 of 2007

1. MD.ASLAM , s/o Late Noor Muhammad
2. Rausan Khatoon W/o Md. Ashlam Ansari
3. Md. Suleman Ansari, S/o Late Noor Muhammad
4. Samina Khatoon W/o Md. Moimuddin,
5. Md. Moeen Ansari S/o Late Noor Muhammad
6. Md. Safi Ansari, S/o Md. Sarajuddin
7. Shakila Khatoon, W/o Md. Safi Ansari
8. Md. Maqubul Ansari S/o Noor Muhammad
   All R/o village Bhadauni Sharif, P.S. Town, Nawadah, District Nawadah.

…… Petitioners

Versus

1. STATE OF BIHAR
2. Md. Kalamuddin, S/o Late Md. Jahoor, R/o village Dayali Bigha, P.S. Hisua, District Nawadah.

….. Opp. Parties.

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4 3.12.2008 Heard Mr. Durgesh Nandan, learned counsel for the petitioners and Dr. Mayanand Jha, learned A.P.P. for the State. Although O.P. No. 2, the complainant, was duly served with notice he has chosen not to appear to contest this application.

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All the petitioners who happen to be the close relatives of the complainant have prayed for the quashing of the order dated 25.7.2006 passed by the Sub Divisional Judicial Magistrate, Nawada in Complaint Case No. 235 (C) of 2004, whereby the learned Magistrate has taken cognizance of offence under section 498A IPC and section 4 of the Dowry Prohibition Act.

On a query made by the Court the learned counsel for the petitioners submits that no progress has been made in the case prior to the stay having been granted by this Court on 4.10.2007.

It appears that the specific allegation of demanding dowry in the form of one lac rupees and a motorcycle is attributable only to

the husband and the allegation against rest of the accused persons is omnibus and general in nature.

Learned A.P.P. for the State submits that section 4 of the Dowry Prohibition Act would be applicable to all the accused persons since all of them have demanded dowry.

From perusal of the complaint petition and the evidence of the witnesses including the victim as has cropped up at the inquiry under section 202 Cr.P.C. the specific allegation is against the husband and the allegation so far as the other accused persons, including the petitioners is concerned, is general and omnibus in nature.

In that view of the matter this application so far as the petitioners are concerned is allowed and the impugned order taking cognizance against them is hereby quashed.

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(Abhijit Sinha, J.)

Spd/-